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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,088	05/19/2000	Daniel J. Guinan	NAN00-001	9765

23838 7590 04/28/2006

KENYON & KENYON LLP  
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SUITE 700  
WASHINGTON, DC 20005

EXAMINER
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HAVAN, THU THAO

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/575,088

Applicant(s)

GUINAN, DANIEL J.

Examiner

Thu Thao Havan

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**Period for Reply**  
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

Application No.

- 4) ☒ Claim(s) 44-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to: \_\_\_\_\_
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

2b) ☐ This action is non-final.

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☒ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **Detailed Action**

#### **Response to Amendment**

Claims 44-61 are pending. This action is in response to the amendment received February 17, 2006.

#### **Response to Arguments**

The rejection of claims 44-61 under 35 U.S.C. 102(e) as being unpatentable over Pallakoff et al. (US 6,269,343) is maintained.

Applicant's arguments filed February 17, 2006 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

Applicant alleges that the prior art made of record fails to teach first and second level offers for different services or goods. The examiner disagrees with applicant's representative since Pallakoff teaches first and second level offers for different services or goods (col. 8, lines 22-40; col. 4, lines 20-36; col. 11, lines 25-42; abstract). In other words, Pallakoff discloses different levels of offers by having different price ranges for different products at various levels. For example, first-level is 2 to 5 balls for \$10 while second-level is 6 to 20 balls at \$8. Thus, different services are being offer at different levels. In that, his system allows sellers to set both a minimum number of buyers as well as a minimum volume of goods or services sold, and allows the seller to set limits

following comments are made:

Applicant alleges that the prior art made of record fails to teach first and second level offers for different services or goods. The examiner disagrees with applicant's representative since Pallakoff teaches first and second level offers

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on the amount any one buyer could buy for a given offer. In addition, his system allows sellers to offer services as well as goods.

With regards to the claims rejected as taught by Pallakoff, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Pallakoff taught the claimed limitations.

### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

67(a). Applicant is reminded of the extension of time policy

136(a)

A shortened statutory period for reply to this

from the mailing date of this action. In the event

MONTHS of the mailing date of this final action and the

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTT can normally be reached on Monday-Friday

4/26/2006

VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600



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